

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

C. EARL GRANT

Plaintiff,

vs.

NATIONAL BOARD OF MEDICAL EXAMINERS and
FEDERATION OF STATES MEDICAL BOARD

Defendants.

C. Earl Grant, Plaintiff *Pro Se*

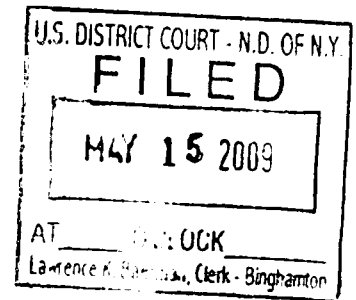
**MOTION FOR POSTPONEMENT
UNDER THE SERVICEMEMBERS' CIVIL RELIEF ACT**

1. Plaintiff respectfully petitions this Court to grant him a 90 day postponement of this matter under 50 U.S.C app. Section 522.

2. On or about 5 May 2009, the Plaintiff, who is on active duty in the United States Army, received **Exhibit A** hereto, which are military orders directing him to serve at least one year in Iraq.

3. Since the Plaintiff is *pro se*, his military duties will create an absolute bar to his ability to attend to his interests in this matter. Given the duration of this tour, the Plaintiff expects to be able to participate in this matter and appear before this court no earlier than 1 June 2010.

4. The Plaintiff makes this request under Section 522 of the Servicemembers' Civil Relief Act (SCRA) which requires the court to stay the action for a period of not



7:07-CV-996
(TJM/GJD)

less than 90 days, if request includes, A) documentation explaining how the military duties interfere with the military member's ability to appear, and stating a date when the member will be available; and B) a letter from the member's commanding officer stating that the military member's current military duty prevents appearance, and that military leave is not authorized for the servicemember at the time of the letter. The Plaintiff's Commanding Officer has written such a letter, which is attached hereto at **Exhibit B**.

WHEREFORE, the Plaintiff asks that this Court grant him a stay in these proceedings of 90 days. The Plaintiff also asks for such other and further relief as the Court may determine to be just and equitable.

Respectfully Submitted,

Dated: 10 May 2009

BY: C. Earl Grant, M.D., Ph.D.
C. Earl Grant, M.D., Ph.D.
Plaintiff, *Pro Se*
9501 Farrell Road
P.O. Box 1067
Fort Belvoir, VA 22060
(561) 537-0229

CERTIFICATE OF SERVICE

I, C. Earl Grant, the Plaintiff in this case, do hereby certify that on this 13 day of May, 2009, I mailed a true copy of the foregoing by postage prepaid first class mail, to all counsel of record.

Dated: 13 May 2009

BY: C. Earl Grant, M.D., Ph.D.
C. Earl Grant, M.D., Ph.D.
Plaintiff, *Pro Se*
9501 Farrell Road
P.O. Box 1067
Fort Belvoir, VA 22060
(561) 537-0229

Department of the Army
US Army Installation Management Command
US Army Garrison, Fort Belvoir
Directorate of Human Resources
5815 20th Street, Bldg 100
Fort Belvoir, Virginia 22060-5920

Orders 125-6

5 May 2009

GRANT, CARROL 416-04-9575 MAJ, USAMEDDAC (W6F1AA) Fort Belvoir, VA 22060

You are reassigned and/or deployed as shown below and are to return to your permanent station upon completion of the duties in support of this operation. You will submit a reviewed travel voucher for this travel to the finance office within 5 working days after return to home station.

Assigned to: USAMEDDAC, Dewitt Army Community Hospital (W6F1AA), Fort Belvoir, VA 22060 w/duty in Iraq

Purpose: In support of Operation Iraqi Freedom 09-11

Temporary duty: 14th CSH, Fort Benning, GA

Report Date TDY Station: NLT 13 June 2009

Number of days: 365 or Until Mission Complete

Will proceed date: o/a 13 June 2009

Report date: 13 June 2009

Security clearance: Secret, verified by Mr. Wayne Jones at 703-805-0246

Accounting classification:

21 9 2020.0000 B1 B1TC 135197 21T1/21T2 GRA9575TH9DT01 VIRQ F4210 AZM32E 12161

21 0 2020.0000 B1 B1TC 135197 21T1/21T2 GRA9575TG9DT01 VIRQ F4210 AZM32E 12161

FUNDS SUBJECT TO AVAILABILITY

CIC: 2920B1AZM312161 / 2020B1AZM312161

Control #: 9125-003-BEL-1

Movement Designator: PMO9/0

Duty Title: N/A

WIAS Tasker#: 09107.01C

Additional instructions: (a) This is a Temporary Change of Station (TCS); soldiers will be attached to TCS duty stations. Normal PCS entitlements, allowances and relocation of family members are not authorized. Consolidated Personnel Policy Guidance (PPG) for Operations Iraqi Freedom, Enduring Freedom and Noble Eagle entitlements are listed at the DCS, G-1 web site

<http://www.armygl.army.mil/militarypersonnel/policy.asp>.

(b) Temporary storage of HHG may be authorized IAW JFTR, U5466. Contact the local transportation office for assistance. Movement of family members is not authorized. Family members may remain in government quarters as an exception to AR 210-50.

(c) Travel by POV is authorized if duty is in CONUS; as not advantageous to the government; cost of transportation is limited to Official Directed Mode; reimbursement is limited to the to the government cost of transportation. POV storage may be authorized IAW JFTR, U5466; contact the local Installation Transportation (ITO) officer for assistance.

(d) You will bring only those items specified by the Personnel Policy Guidance or other appropriate authority. You will be provided a list of those items from your servicing personnel service center. Soldiers will hand carry a deployment packet containing as a minimum: ERB (Enlisted); ORB (Officer and Warrants Officers); shot records; Chronological Record of Medical Care (DA Form 8007); a copy of TCS orders; copy of DD Form 93; SGLI Form 8286 and DD Form 873.

Exhibit A

Orders 125-6

USAGFB

5 May 2009

(e) Government quarters and dining facilities will be used at the replacement activity and during deployment. Essential Unit Mess (EUM) has been declared by Assistance Secretary of the Army (Manpower and Reserve Affairs) ASA (M&RA) for the mobilization and demobilization sites not to exceed (10) days. MOSQ location will provide quarters and mess. The Installation Commander will make separate determinations as the availability of mess and quarters and as a last resort will issue statement/certificate of non-availability. Per diem payable is \$3.00 per day for CONUS and \$3.50 per day for OCONUS. Per Diem will normally be paid for the travel to gaining station, or replacement activity unless prohibited by travel circumstances.

(f) Soldier must have had a negative HIV test within the past six months prior to deployment.

(g) During period of deployment, gaining/deployed unit commander has responsibility for personnel service support to include awards and decorations, UCMJ, and all other forms of personnel and legal administration support except Reserve Component promotion authority.

(h) Soldier readiness processing will be accomplished prior to departure from losing installation/home station per AR 600-8-101. Losing installation commander will determine the extent of out-processing. Soldier will hand carry SRP packet, a copy of their Military Personnel Records Jacket (MPRJ) along with associated transfer documents and records and deployment packet to the gaining PSC or replacement activity.

(i) Basic Allowance for Housing (BAH) for Regular active duty soldiers is based upon their permanent duty station. RC Soldiers and retired Soldiers called or ordered to active duty BAH is based on their principal place or residence when called or ordered to the tour of active duty. Active duty soldiers located in CONUS or OCONUS areas that are currently authorized COLA will continue to draw COLA as determined by the area to which they are assigned. COLA with dependents rates will continue as long as command sponsored family members remain in OCONUS or CONUS COLA area.

(j) For flight into and out of theater, Soldiers are authorized the shipment of 4 checked bags – one personal bag and three issued bags of OCIE (not to exceed 70 lbs/bag) and 1 standard carry-on bag on AMC/contracted flights. When AMC or contracted transportation is not available reimbursement for 4 checked bags weighing more than 50lbs to a max of 70lbs per bag authorized as excess baggage.

(k) Duty uniform is ACU. Soldier will deploy with valid ID card, 2 sets of ID Tags and military drivers equipment license (SF 46 and OF 346) and orders.

(l) CRC Information: N/A

(m) Soldier may submit interim travel voucher if otherwise entitled to per diem and or travel for the monthly payment of accrual travel payment. Care should be taken to keep all required documents to support payments/request for payments. All documents will be required upon completion of the final settlement voucher.

(n) Use of leave during this deployment is recommended for all soldiers. Reserve Component soldiers will submit a copy of their record upon completion of this operation with the final settlement voucher. If unable to take leave during this period, a payment of unused leave is authorized with no impact to career leave sell back of 60 days.

(o) Soldier's travel is to be billed to a centrally billed account (CBA).

(p) Temporary Duty (TDY) Household Goods (HHG) Weight allowance is authorized for CONUS and OCONUS based personnel that are on active duty for a period greater than 200-days, excluding those areas designated as Hostile Fire/Imminent Danger Pay areas.

(q) Countries authorized for travel are: Afghanistan, Bahrain, Kuwait, Egypt, Djibouti, Eritrea, Ethiopia, Iran, Iraq, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Seychelles, Somalia, Sudan Tajikistan, Turkmenistan, United Arab, Yemen Saudi Arabia, Oman, Qatar, UAE, Pakistan, Tajikistan, Germany, Uzbekistan, Egypt and Republic of Georgia.

(r) Hostile Fire/Imminent Danger Pay (HF/IDP) is authorized.

(s) Family Separation Allowance Type II (FSA-II) is authorized.

(t) Combat Zone Income Tax Exclusion (CZITE) is authorized.

(u) Variation of itinerary is authorized based on MET-T to include Afghanistan and Iraq, duty uniform.

(v) Duty uniform is ACUs. IA will appropriate MOPP gear and CTA-50. Soldier will deploy with valid ID card, 2 sets of ID Tags and military drivers equipment license (SF 46 and OF 346) and orders.

Orders 125-6

USAGFB

5 May 2009

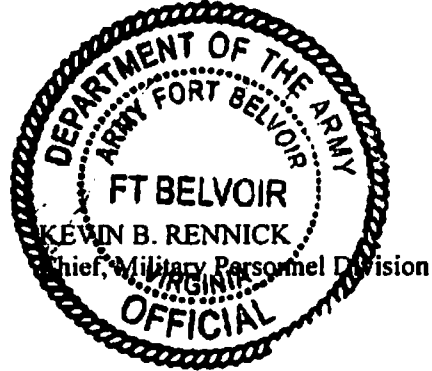
(w) Soldiers will logon to the AKO web site at https://www.us.army.mil/portal/portal_home.jhtml and establish an AKO email account.

(x) Credentialed providers must contact their credentials office to coordinate preparation of an Inter-Facility Transfer Credential Brief-ITCB. Providers must have their MTF credentials office send or email a copy of their ITCB to Credentials Office at 14TH CSH HQ, bldg # 2394, 6100 Goltra CT, Fort Benning, GA 31905. ATTN: Credentials Coordinator. All PROFIS providers are required to maintain a copy of the ITCB while deployed.

(y) PROFIS personnel should bring copies of all licenses (LPN's and RN's) and certifications.

Format: 401

FOR THE COMMANDER:



DISTRIBUTION:

5920A-W (1) WPC

5920B (2) PSOB

5246 (20) HQ, USAMEDDAC (W6F1AA), Fort Belvoir, VA 22060 (GRANT)

5246 (5) CDR, USAMEDDAC (W6F1AA), Fort Belvoir, VA 22060



DEPARTMENT OF THE ARMY HEADQUARTERS
DEWITT ARMY COMMUNITY HOSPITAL
9501 FARRELL ROAD, FORT BELVOIR, VA 22060

10 MAY 2009

UNIT LETTER: SCRA postponement

IN REPLY REFER TO: In re: (Case 7:07-CV-996 (TJM/GJD), 50 U.S. Code Appendix §522

Honorable Magistrate, Thomas J. McAvoy

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

U.S. Courthouse

15 Henry Street

Binghamton, NY 13901

Re: Commanding Officer's Request for Stay of Proceedings

Dear Sir:

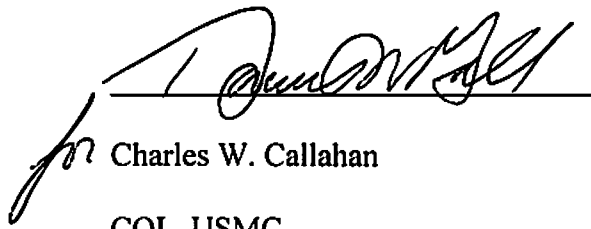
I the Commanding Officer of UNIT of which MAJ C. Earl Grant is a member. MAJ Grant is on active duty in the United States Army and is a party to the case referenced above. Recently, MAJ Grant was advised that he is required to appear in court on 27 March 2009 regarding this matter which is pending your review and decision.

He will be unable to attend subsequent appearance because his military duties adversely materially affect his ability to appear on dates required during his deployment. Specifically, he is assigned as a PROFIS Medical Officer and is scheduled to join a deploying unit, and military leave may not authorized during this period.

This letter is written pursuant to 50 U.S.C. §522, which provides in relevant part that a court shall grant such a request for postponement for a period of not less than 90 days if the conditions of the section are met. Moreover, such a request does not constitute an appearance for jurisdictional purposes, and does not constitute a waiver of any substantive or procedural defense.

Please contact COL Daniel w. Gall at 703-805-1115 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Callahan", is written over a horizontal line. The signature is stylized with a large initial "C" and "W".

Charles W. Callahan

COL, USMC

Commanding Officer

Copy to: SM File (or rear element)

C. Earl Grant, M.D., Ph.D.
9501 Farrell Road
P.O. Box 1067
Fort Belvoir, VA 22060



7007 1490 0000 5784 8257



1000



13901

U.S. POSTAGE
PAID
FORT BELVOIR, VA
22060
MAY 13, 09
AMOUNT

\$4.51

00042394-02

Clerk of United States District Court
U.S. Courthouse
15 Henry Street
Binghamton, NY 13901
Attn: Lawrence K. Baerman

1390132781 0087

